aside for mere technical errors except where such errors actually tend to prejudice the defendant's rights. *Held*, that this omission is ground for a new trial. *State* v. *Walton*, 91 Pac. 490 (Ore.).

Decisions in accord rest on the ground that the record in criminal cases must show affirmatively that every step essential to a valid trial has been properly taken, and that it is essential that a plea be entered, since otherwise there would be no issue for the jury to try and hence no valid trial. *Crain* v. *United States*, 162 U. S. 625. But it has been held that the omission of a formal plea is not a fatal error when the defendant consented or acquiesced in proceeding to a trial on the merits, for no substantial right of the defendant is violated, since the state is put to the whole of the proof, just as if a plea of not guilty had been entered. *Martin* v. *Territory*, 14 Okl. 598. It has also been held that even if a plea is essential to a valid trial, it is sufficiently shown when it may be clearly and necessarily inferred from the whole record that a plea was entered. *Rex* v. *Fowler*, 4 B. & Ald. 273. The weight of authority, however, especially since the decision of the United States Supreme Court cited above, is decidedly in accord with the present case.

DECEIT — GENERAL REQUISITES AND DEFENSES — PROVISION IN CONTRACT FOR VERIFICATION. — In an action for deceit the lower court ruled that a clause in a contract providing that the plaintiff should verify the defendant's plans precluded the plaintiff from asserting that he had been induced to act by the defendant's representations. *Held*, that the provision does not as a matter of law bar the plaintiff's recovery, but that whether or not the plaintiff acted in reliance on the plans is a question for the jury. *Pearson & Son, Ltd.* v. *Lord Mayor, etc., of Dublin*, [1907] A. C. 351.

It has been held that where a contract is conditioned on the verification of the defendant's statement by an expert, and the plaintiff acts without such verification, his action for deceit is not necessarily barred. *Blacknall* v. *Rowland*, 108 N. C. 554. The exact question involved in the present case seems not to have been considered elsewhere. The case, however, is analogous to cases where the plaintiff in an action for deceit negligently failed to investigate the truth of the defendant's statements. Whether such negligence should bar the action is not settled. The better view, however, is that since the action is for a wilful tort, the plaintiff though negligent should recover. *Speed* v. *Hollingsworth*, 54 Kan. 436; *contra*, *Poland* v. *Brownell*, 131 Mass. 138; see 17 HARV. L. REV. 421. In a case like the one under discussion, moreover, the plaintiff should not be without redress if the provision requiring verification was inserted to induce a belief that investigation was not necessary. See *Blacknall* v. *Rowland*, *supra*. The present case is sound, therefore, in holding that such a provision does not preclude the plaintiff's proof of reliance on the defendant's representations.

EMINENT DOMAIN — COMPENSATION — RIGHTS OF EXECUTORY DEVISEE. — Land which had been devised to A in fee, subject to an executory devise over in favor of B if A died without issue living at her death, was taken by eminent domain. B sought to have the compensation secured to him in case the executory devise took effect. *Held*, that B has no rights in the fund. *Fifer* v. *Allen*, 81 N. E. 1105 (Ill.).

An executory devise is in many respects analogous to the inchoate right of dower. Neither is certain to vest, but neither can be destroyed. The vesting of either gives a complete legal estate. Most courts have long since overridden the technical objection that inchoate dower is a mere contingent right, and allow the wife rights in the compensation given under eminent domain. *Wheeler* v. *Kirtland*, 27 N. J. Eq. 534; *contra*, *Kauffman* v. *Peacock*, 115 Ill. 212; see 20 HARV. L. REV. 407. The value of her interest can be determined by mortality tables, but before their use became general the husband was ordered to secure one-third of the proceeds to her in case she survived, or else to put that share in trust until the death of one of them. *Crangle* v. *Borough of Harrisburg*, 1 Pa. St. 132. Although the present case has never arisen before, there seems to be no reason to deny the executory devisee similar relief. It is not against

public policy to tie up the money, for the claimant's right arises, if at all, upon a contingency which can happen only within the limits set by the Rule against Perpetuities.

EXECUTION — EXEMPTIONS — RIGHT OF EXEMPTION OF DEBTOR FRAUDULENTLY REMOVING GOODS. — A debtor, to avoid payment of a debt, removed part of his property to Kentucky, leaving in Tennessee no more than was by statute exempt from execution. The value of the property removed equalled the amount of the statutory exemption. *Held*, that the debtor is not entitled to claim as exempt the property remaining in Tennessee. *Rogers* v. *Ayers*, 104 S. W. 521 (Tenn.).

It has been held that a fraudulent conveyance or concealment of property by a debtor works a forfeiture of his right of exemption. *Kreider's Estate*, 135 Pa. St. 578. The language of these exemption statutes, however, does not discriminate against dishonest debtors. Moreover, the exemption is created for the benefit of the family as well as for the encouragement of improvident debtors; hence the better view, and that sustained by the weight of authority, is that a debtor does not lose his right of exemption because of a fraudulent conveyance or concealment. *Duvall* v. *Rollins*, 71 N. C. 221. Some states go so far as to hold that such disposition does not affect the right of the debtor to select his exemption. *Megehe* v. *Draper*, 21 Mo. 510. But to allow a debtor to select as exempt property which has been levied upon, while he conceals or removes the rest, would be to allow him a larger benefit than the statutes contemplate; hence many jurisdictions, agreeing with the present case, hold that the fraudulent concealment or removal of property is a selection *pro tanto* by the debtor of such property as his exemption. *Hoover* v. *Haslage*, 5 Oh. N. P. 90.

GARNISHMENT — PROPERTY SUBJECT TO GARNISHMENT — GARNISHMENT OF OBLIGATION WITHOUT JURISDICTION OVER OBLIGEE. — A life insurance policy issued by a foreign corporation transacting business in New York in favor of non-resident beneficiaries was assigned to a New York creditor as security for advances. The insurance being due, the creditor garnisheed the insurance company in New York. The beneficiaries were served by publication. *Held*, that the garnishment is valid. *Morgan* v. *Mutual Benefit Life Ins. Co.*, 119 N. Y. App. Div. 645.

The action of garnishment is in the nature of an action *in rem* based on the fact that the garnishee has possession of property belonging to the principal defendant. When this property is tangible it may of course be garnisheed where it is situated. *Cooper* v. *Reynolds*, 10 Wall. (U. S.) 308. When it is intangible, like a debt, it would seem necessary for the court to have jurisdiction over the principal defendant in order to deprive him of his personal claim against the garnishee-debtor. But garnishment is allowed wherever the debtor may be sued. *Harris* v. *Balk*, 198 U. S. 215; see 19 HARV. L. REV. 132. A foreign corporation consents to be sued in whatever state it does business. *St. Clair* v. *Cox*, 106 U. S. 350. Thus the present case illustrates how an insurance company may be garnisheed on the same insurance claim in any state in the Union, irrespective of the court's having jurisdiction over the principal defendant. Indeed, any obligee of a corporation is subject to be deprived of his claim in a remote jurisdiction without opportunity to defend. While this decision may be a logical application of the principles enunciated by the Supreme Court, it seems in conflict with a previous New York decision. *Douglass* v. *Phenix Ins. Co.*, 138 N. Y. 209.

HABEAS CORPUS — EFFECT OF ESCAPE AFTER SERVICE OF WRIT. — After issue of a writ of *habeas corpus* and pending the argument, the relator escaped. He later surrendered to the sheriff and renewed his motion for discharge from custody. *Held*, that he has no right to a discharge under this writ. *Re Bartels*, 10 Ont. W. Rep. 553.

The remedy of *habeas corpus* is intended to facilitate the release of persons actually detained in unlawful custody. See *Barnardo* v. *Ford*, [1892] A. C. 326,